

IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1898

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THIRD STREET AND SUBURBAN RAILWAY COMPANY.  
*Appellant*

vs.

MEYER LEWIS

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**Appeal from the United States Circuit Court of Appeals  
For the Ninth Circuit**

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**APPELLANT'S REPLY**

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REPLY.

Our reply to the brief for Appellee need not be long.

It is sufficient to draw the Court's attention to the authorities cited on pages 8 to 11 of Appellee's brief in order to show how inapplicable they are. In the present case the question is how far a prior mortgage can be displaced by the debts of *the Court*. The authorities cited by Appellee, how-

ever, discuss only the power of the Court to displace such a mortgage by unsecured debts existing before the Court ever took the property in charge. Sometimes these debts, instead of being paid at once, are assumed by the Court and made preferential liens over the prior mortgage in the form of receiver's certificates. Through the judicial discussion of this sort of receiver's certificates learned counsel for Appellee appears to have been led into some confusion. Certificates imposed by the Court to pay or make preferential old debts of the Company stand in a very different light in equity from those imposed by the Court to pay debts of its own, debts incurred by the Court in its operation and preservation of the property, and in this instance operation, preservation and (through the acceptance of interest) the participation of the very person now complaining. When, therefore, the other side cite these expressions evidencing the delicacy of courts in displacing prior liens by receiver's certificates it should be borne in mind that the certificates referred to simply stand in place of old unsecured debts of the insolvent. But certificates issued purely for operating expenses, are for debts of the Court. Here they are acquiesced in by silence and relations with the Court. Indeed the whole controversy here is not so much about receiver's certificates as about a court's debts in managing an estate.

Respectfully submitted,

FREDERICK BAUSMAN,

Counsel for Appellee *ant*